

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 14-20467

Honorable: Robert Cleland

vs.

GEORGE STEWART,

Defendant.

STIPULATED PRELIMINARY ORDER OF FORFEITURE

The United States of America, by and through its attorneys, BARBARA L. McQUADE, United States Attorney for the Eastern District of Michigan, and ADRIANA DYDELL, Assistant United States Attorney, together with Defendant GEORGE STEWART (“Defendant”), individually and by and through his attorney, ANTONIO TUDDLES, Esq., hereby submit this Stipulated Preliminary Order of Forfeiture:

1. An Indictment was filed on or around August 6, 2014 which charged Defendant with one count of Possession With Intent to Distribute Marijuana pursuant to 21 U.S.C. § 841(a)(1); one count of Possession of a Firearm in Furtherance of a Drug Trafficking Crime pursuant to 18 U.S.C. § 924(c); and one count of Felon in Possession of a Firearm pursuant to 18 U.S.C. § 922(g)(1) (Docket #12).

2. The Indictment sought criminal forfeiture pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) of all property that was involved and/or used in the knowing commission of 18 U.S.C. § 922(g). (Docket #12). Defendant acknowledges that the Indictment contains notice of forfeiture.

3. On November 5, 2014, Defendant pleaded guilty to Counts One and Three of the Indictment, which charged Defendant with Possession With Intent to Distribute Marijuana pursuant to 21 U.S.C. § 841(a)(1) and Felon in Possession of a Firearm pursuant to 18 U.S.C. § 922(g)(1). As part of the Rule 11 plea agreement, Defendant agreed to forfeiture of the following property (hereinafter collectively referred to as the “Subject Property”):

- a) One (1) 9mm Smith & Wesson Handgun, Model SW9GVE, Serial Number: PBV9879; and
- b) One (1) Cobra .380 Caliber Handgun, Model CA380, Serial Number: CP046654.

4. In entering into this Stipulation with respect to forfeiture, Defendant acknowledges that he understands that forfeiture of the Subject Property is part of the sentence that may be imposed on him in this case and waives his right to challenge any failure by the Court to advise him of this at the time that his guilty plea is accepted pursuant to Federal Rules of Criminal Procedure 11(b)(1)(J).

5. In entering into this Stipulation with respect to forfeiture, Defendant knowingly, voluntarily, and intelligently waives any challenge to forfeiture of the

Subject Property based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution, and specifically acknowledges that the Subject Property was involved in, used for, or intended to be used for Possession With Intent to Distribute Marijuana and Felon in Possession of a Firearm, and is therefore subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

6. In entering into this Stipulation with respect to forfeiture, Defendant hereby agrees to immediate entry of this Stipulated Preliminary Order of Forfeiture, and agrees that any and all interest he has in the Subject Property shall be forfeited to the United States for disposition according to law. Further, Defendant expressly waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding pronouncement of forfeiture at sentencing and incorporation of forfeiture in the judgment and expressly waives any right to have a jury determine forfeiture of his interest in the Subject Property.

7. NOW THEREFORE, based upon the Indictment, the Rule 11 Plea Agreement, this Stipulation, and other information in the record, and pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), IT IS HEREBY ORDERED that the Subject Property IS HEREBY FORFEITED to the United States for disposition according to law, and any right, title or interest of Defendant, and any right, title or

interest that his heirs, successors or assigns have, or may have, in the Subject Property is HEREBY AND FOREVER EXTINGUISHED.

8. IT IS FURTHER ORDERED THAT, upon entry of this Stipulated Preliminary Order of Forfeiture and pursuant to 21 U.S.C. § 853(n), and other applicable statutes, the United States shall publish on www.forfeiture.gov, notice of this Stipulated Preliminary Order of Forfeiture and of its intent to dispose of the Subject Property. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in any of the Subject Property. The aforementioned notice shall direct that any person, other than the Defendant, asserting a legal interest in any of the Subject Property may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the Subject Property. Any petition filed by a third party asserting an interest in any of the Subject Property must be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title or interest in any identified Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in any

identified Subject Property, any additional facts supporting the petitioner's claim, and the relief sought.

9. IT IS FURTHER ORDERED THAT, after the disposition of any motion filed under Federal Rule of Criminal Procedure 32.2(c)(1)(A) and before a hearing on any ancillary petition, the United States may conduct discovery in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

10. IT IS FURTHER ORDERED THAT, pursuant to Federal Rule of Criminal Procedure 32.2(b)(4)(A), this Stipulated Preliminary Order of Forfeiture shall become final as to Defendant at the time of entry and forfeiture of the Subject Property shall be made part of the Defendant's sentence in this case and included in the Judgment. If: (1) no third party files a timely petition before the expiration of the period provided in 21 U.S.C. § 853(n)(2), or (2) any petitions for ancillary hearing are disposed of or adjudicated in favor of the United States, then this Stipulated Preliminary Order of Forfeiture shall become the Final Order of Forfeiture as provided by Federal Rule of Criminal Procedure 32.2(c)(2).

11. IT IS FURTHER ORDERED THAT, after this Stipulated Preliminary Order of Forfeiture becomes the Final Order of Forfeiture; the United States shall have clear title to the Subject Property and shall be authorized to dispose of the Subject Property as prescribed by law.

12. IT IS FURTHER ORDERED THAT, the Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

Agreed as to form and substance:

BARBARA L. McQUADE
United States Attorney

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Dated: November 7, 2014

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[P-64158]

Dated: November 5, 2014

S/George Stewart (see attached)
GEORGE STEWART, Defendant

Dated: November 10, 2014

IT IS SO ORDERED.

Dated: November 10, 2014

s/Robert H. Cleland
HONORABLE ROBERT CLELAND
United States District Judge


12. IT IS FURTHER ORDERED THAT, the Court retains jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

Agreed as to form and substance:

BARBARA L. McQUADE
United States Attorney

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Dated: November 7, 2014


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[P-64158]

Dated: November 15, 2014


GEORGE STEWART, Defendant

Dated: November __, 2014

IT IS SO ORDERED.

Dated: _____

HONORABLE ROBERT CLELAND
United States District Judge